

2 11794



August 11, 2004



VIA U.P.S. OVERNIGHT

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: CORRECTED PETITION FOR INTERIM TRAIL USE

Proposed Abandonment of the Perry Subdivision from M.P. 296.8 near Waukee, Iowa to M.P. 275.9 (Equation M.P. 275.9 = 361.8) near Perry, Iowa, and from M.P. 361.8 to M.P. 369.0 near Dawson, Iowa, a total distance of 28.1 miles in Dallas County, Iowa; STB Docket No. AB-33 (Sub-No. 213X)

Dear Mr. Williams:

The Union Pacific Railroad Company has received a corrected Request for issuance of a Public Use Condition and a Notice of Interim Trail Use pursuant to (U.S.C. 10905 and 49 C.F.R. § 1152.28) and 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 respectively, regarding that portion of the Union Pacific's right-of-way known as the Perry Subdivision from M.P. 296.8 near Waukee, Iowa to M.P. 275.9 (Equation M.P. 275.9 = 361.8) near Perry, Iowa and from M.P. 361.8 to M.P. 369.0 near Dawson, Iowa, a total distance of 28.1 miles in Dallas County, Iowa. The Union Pacific is willing to negotiate with the Iowa Natural Heritage Foundation concerning the acquisition of the subject property for public use or trail use and supports the Iowa Natural Heritage Foundation's corrected request to negotiate for a period of 180 days. A copy of the Iowa Natural Heritage Foundation's corrected request dated August 6, 2004 is attached hereto as Exhibit "A" and hereby made a part hereof.

Ten (10) additional copies of this letter and exhibit are enclosed for the Board's use and distribution.

Very truly yours,

Enclosure

ENTERED
Office of Proceedings

AUG 12 2004

Part of
Public Record

O:\33-213X\NTU.DOC

Mack H. Shumate, Jr.
Senior General Attorney, Law Department

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065



Insurance Exchange Bldg. Phone: 515-288-1846
Suite 444 Fax: 515-288-0137
505 Fifth Avenue e-mail: info@inhf.org
Des Moines, IA 50309-2321 www.inhf.org

August 6, 2004

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

----- CORRECTED PETITION -----

RE: Union Pacific Railroad Abandonment, Dallas County, Iowa;
Docket # AB-33 (Sub-No. 213X)

Dear Mr. Williams:

This comment should be treated as a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the Dallas County Conservation Board (county government agency), and the Iowa Natural Heritage Foundation, which are parties interested in conservation and recreation, and are hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization for the rail line between milepost 296.8 near Waukee to milepost 275.9 (equation M.P 275.9=361.8) near Perry, and from milepost 361.8 to milepost 369.0 near Dawson, Dallas County, Iowa.

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting Union Pacific Railroad (UPRR) from disposing of the corridor, including ballast, bridges, culverts and right-of-way, except



except for public use on reasonable terms. The justification for this condition is that the corridor is located near several state, county and US Highways and would make an excellent transportation and recreation trail. In addition, the conversion of the property to trail use is in accordance with local, state and regional trail plans including the extension of the Raccoon River Valley Trail, which currently ends in Dawson and the Hiawatha Trail in Perry. The corridor also provides important wildlife habitat and its preservation as a trail is consistent with the county conservation efforts. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time to complete negotiations with the railroad.

2. An order barring removal or destruction of potential trail-related structures such as ballast, bridges, trestles, culverts, tunnels and right-of-way. The justification for this condition is that these structures have value for trail purposes and future reactivation of rail service. The time period requested is 180 days from the effective date of the abandonment authorization in order to complete negotiations.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking and interim trail use. In addition to the public use conditions sought above, Commenter also makes the following statement:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL

RESPONSIBILITY: In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, Commenter is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by UP Railroad Company after transfer of the corridor to the public agencies.

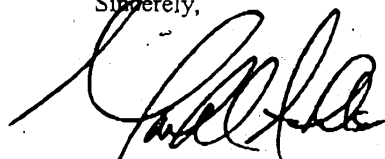
The Dallas County Conservation Board and the Natural Heritage Foundation acknowledge that the use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

The property extends from milepost near milepost 296.8 near Waukee, Iowa to milepost 275.9 (equation M.P 275.9=361.8) near Perry, Iowa and from milepost 361.8 to 369.0 near Dawson. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No AB 33 (Sub No 213X). A map depicting the right-of-way is attached.

By my signature below, I certify service upon Union Pacific Railroad Company c/o Mack Schumate, Room 1920, 101 N. Whacker Drive, Chicago, IL 60606, by U.S. Mail, postage prepaid, first class, today, August 6, 2004, and via FAX number 312-777-2065.

On behalf of the Dallas County Conservation Board and the Iowa Natural Heritage Foundation, thank you for your consideration of this petition.

Sincerely,



Mark C. Ackelson
President

FAX

Iowa Natural Heritage Foundation
505 Fifth Ave.
Suite #444
Des Moines, IA 50309-2321

Date August 6, 2004
Number of pages including cover sheet _____

To: Mack Schumate

From:

Phone _____
Fax Phone _____
CC: _____

Phone 515/288-1846
Fax Phone 515/288-0137
email _____

REMARKS:

☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

Mack, attached is a proposed corrected Petition regarding the Dallas County, Iowa abandonment. The correction is based on a conversation I had with Ray Allamong. Let me know if you have any concerns. Otherwise, I will send it off to the STB. Thanks.